



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 On April 3, 2018, the Government filed an Indictment charging Defendant David Harris  
4 with one count of Bank Robbery. This case is set to proceed to trial on September 10, 2018.  
5

6 **II. LEGAL ARGUMENT**

7 A presentence investigation may be initiated prior to entry of a guilty plea or nolo  
8 contendere or prior to the establishment of guilt. *See, Fed. R. Crim. P. 32.*

9 Counsel requires a pre-plea presentence report to determine whether Mr. Harris is  
10 potentially eligible for either Career Offender or Armed Career Criminal status.  
11

12 Counsel understands that Mr. Harris has prior felony convictions, however, Counsel  
13 cannot accurately calculate whether Mr. Harris qualifies as a Career Offender or for the Armed  
14 Career Criminal (“ACCA”) sentencing enhancements without the information that would be  
15 provided in the Pre-Plea PSR. Mr. Harris’ eligibility for Career Offender and the ACCA will  
16 drastically impact his sentencing exposure, potential negotiations, and his decision as to how  
17 he should proceed in this matter. In addition, the timing of Mr. Harris’ prior convictions could  
18 impact his sentencing guideline range and criminal history score. A pre-plea presentence report  
19 will promote judicial economy and could greatly expedite the manner in which this case is  
20 resolved. Furthermore, Mr. Harris consents to the pre-plea presentence investigation.  
21

22 Counsel for Mr. Harris has spoken to the Government, and the Government does not  
23 oppose the instant motion.  
24

25 Therefore, undersigned counsel respectfully requests this Court issue an Order directing  
26 the United States Department of Parole & Probation to conduct a pre-plea presentence  
27 investigation on Mr. Harris.  
28

### III. CONCLUSION

Based on the foregoing, Defendant asks this Court to grant his Motion to Conduct a Pre-Plea Presentence Report. Defendant further requests this Court order the United States Department of Parole & Probation to conduct a pre-plea presentence investigation and prepare a report for Mr. Harris.

Dated this 16<sup>th</sup> day of August, 2018.

/s/ Thomas A. Ericsson

THOMAS A. ERICSSON, ESQ.

Nevada Bar No. 4982

1050 Indigo Drive, Suite 120

Las Vegas, NV 89145

*Attorney for David Harris*

## DISTRICT OF NEVADA

Defendant.

## ORDER

DATED this 20th day of August, 2018.



RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

/s/ Rachael Stewart  
Employee of Oronoz & Ericsson LLC